

**PLANNING BOARD MEETING
CITY HALL AUDITORIUM, 62 FRIEND STREET
JUNE 8, 2015 AT 7:00 P.M.
MEETING CALLED TO ORDER AT 7:15 P.M.**

PRESENT: Howard Dalton, Robert Laplante, Ted Semesnyei, Karen Solstad, Lars Johannessen.

ABSENT: David Frick.

ALSO PRESENT: Paul Bibaud, Recording Secretary. Nipun Jain, City Planner at 8:25 P.M.

MINUTES:

**MAY 11, 2015: Motion by Robert Laplante to approve minutes as submitted.
Motion seconded by Ted Semesnyei. AIF.**

SIGN APPLICATION:

CRAFT BEER CELLARS, 19 Main Street (Jocelyn Hughes)

Scott Mandeville, subcommittee: We typically sit down and do a sign subcommittee review of signs, just to talk about the design layout, make sure it meets all the strict legal requirements for town zoning, and fits the character of the town neighborhood downtown area. Have you talked to Nipun about this yet?

Jocelyn Hughes, owner / operator: I am working with Jen Wright, who is very familiar with your zoning rules and regulations, and has done a tremendous amount of work for you. She reviewed them closely. We did the measurements, and Barbara Foley had sent us several questions that we answered and sent her photographs. We do believe it is in compliance with your rules and regulations, as well as compliance with the historical district. Its simple, not loud, tasteful, subdued, not loud, no neon. The bracket remains on the building from the nineties, it is wired and all set to go. It is substantial and well kept. The height from the end of the sign to the sidewalk is over 9 feet, so it won't bump anyone's head. The material is PVC for longevity. It has the logo of the franchise and has been approved in 21 other cities and towns.

Lars Johannessen: I had a chance to look over the submittal a little bit. My first impression was totally incomplete for an initial application. It didn't have what we needed to do anything.

Jocelyn Hughes: Unfortunately, Jen went out of town to Canada, and I didn't realize it. She is the sign maker. I got questions from Barbara, and I answered them as best I could today and sent it in. I sent photographs and elevations, condition of bracket, etc.

Lars Johannessen: The sign is basically a picture on contact paper on PVC. That's it.

Jocelyn Hughes: I used PVC but we can change it up. We couldn't use wood, and with another harsh winter, it wouldn't hold up too well.

Lars Johannessen: Have you ever heard of sign board?

Jocelyn Hughes: I can suggest that to her.

Lars Johannessen: Being that PVC gets a lot stiffer in winter and is liable to crack on you than sign board will.

Scott Mandeville: So should we do a sign subcommittee meeting then, get Jen in when she comes back, talk about it going through all the details?

Jocelyn Hughes: Sure. We're opening on June 19, during Amesbury Days.

Ted Semesnyei: I make a motion to conditionally approve the sign pending approval by the design subcommittee. Motion was seconded by Scott Mandeville. AIF.

CONTINUED BUSINESS:

219 Lions Mouth Road - continued to July 22 meeting.

**13 Lake Shore Drive - Special Permit, Water Resource Protection District –
Section XII - Representative: W.C. Cammett Engineering**

Heard in conjunction by combining these two special permits hearings into one:

PUBLIC HEARINGS:

13 Lake Shore Drive, Special Permit, Wetlands and Flood Plain Protection District Overlay.

Representative: W.C. Cammett Engineering. Applicant: Andrew Greenfield
Howard Dalton reads legal notice: Cammett Engineering has submitted a Special Permit application for activity within the wetlands and flood plain protection district overlay, as required by Amesbury Zoning Bylaws, Section 11F for maintenance, repairs and recreation activities at the 100 year flood plain boundary.

Alan Roscoe, Cammett Engineering: I'm here on behalf of the Greenfields, Andrew and Jennifer. They are proposing site improvements on their property on the lake. It involves erosion protection, some landscaping, and really some maintenance of the home, like repairing some wooden retaining walls, provide some gravel parking areas, there are a lot of little projects that are being proposed here on site, but it is intended really to be an erosion protection project for the lake. The shoreline has a little bit of a slope to it. Right now, the edge of the shore line is under cutting and undermining, so our client wishes to shore that up, stabilize that slope with some fabric and make sure there is no more erosion or siltation of the lake, to preserve the water quality. Anything we do on the property is going to be within the water resources protection district, because it extends 200 feet landward from the edge of the water. The property is approx. 100 feet deep, so anything we propose will be coming before the board for approval. We're also before ConCom, because we're in the buffer zone of the wetlands ordinance and the state bylaw. We've also received a finding from the zoning board to add on to one of the decks that is attached to the house and repair that. So it is lots of little projects, to be done over time. We're not going to have a crew of ten vehicles. It will be done over weekends, doing some plantings, etc. We're before you seeking approval of that activity, which is permitted in the district. Last time we met, we talked about doing a site visit. I'm not sure if that has happened yet.

Lars Johannessen: Has ConCom finished with you yet, or have you started ?

Alan Roscoe: We have started, so we're in the middle of the hearing process. Our next hearing is scheduled for the first week of July. They want to do a site visit and hire a peer review consultant.

Lars Johannessen: Is it wise to do anything on this before ConCom has moved on what they need to do?

Howard Dalton: I don't like to do that, in case they make some major changes. They have more power to change things than we do. I'd suggest we leave it open for the time

being, monitor what ConCom does, then we can make our final decision based on their final input.

Alan Roscoe: ConCom conducted their site visit just before our first meeting with them. During our discussion during the public hearing, they talked about hiring a peer review consultant. We're waiting on that process.

Howard Dalton: When do you expect ConCom to render a decision?

Alan Roscoe: We'd hope that peer review would be complete before our meeting during the first week in July, and hope we'd be ready to go after that. If you need to wait to hear how their decision making process is going, we can certainly continue. But I'd like to hear if you have any issues that we can address in the meantime. So we've had one public hearing with ConCom, and they are soliciting for peer review, and we hope that process will be concluded before our next meeting on July 6.

Karen Solstad: You said you had a Finding from ZBA?

Alan Roscoe: Yes, there is an attached deck on the back of the house right now, which needs to be repaired, and the applicant sought to add 5 more feet of width to it. Right now, it is only 5-6 feet wide. We got a finding from ZBA to allow that.

Scott Mandeville: At the last meeting, there was mention of a site visit. Is there interest in a site visit or not? I think we should've talked about it, but it didn't go anywhere.

Karen Solstad: It's a compact site with a steep slope, so I think it'd be very helpful.

Howard Dalton: Want to set up a meeting to do it?

Lars Johannessen: Motion to extend this public hearing to July 27th. Motion was seconded by Ted Semesnyei. AIF.

47 ½ - 57 Kimball Road – Definitive Subdivision Plan Approval with 3 special permits, Cluster Residential Special Permit, Common Access Driveway Special Permit, Water Protection Resource District Special Permit.

Scott Mandeville is an abutter who recused himself from this hearing.

Philip Harry, attorney for the applicant, Ivan Cormier Construction Corp. and BC Realty Trust: We have filed a Definitive Subdivision Plan and are requesting the 3 Special Permits. The property is located on Kimball Road, currently assessed as six separate parcels of land. We're looking to extinguish the existing lot lines, create a common access driveway that will provide frontage for 3 of the lots. The site is approx. 19 + acres of land. My client is proposing to either dedicate 16 acres as permanently protected open space, maintain by conveying it to the city of Amesbury or whatever the board's preference might be. We're proposing to build 8 single family houses. The lots will be served by city sewer and water. There will be minimal impact to wetlands and surrounding areas. The bulk of the open space is located to the rear of the property, towards Lake Attitash. Along with the plan, my client proposes to convey an additional strip of land to the city running along Kimball Road, in the event that the city, at some future time, might want to diminish that curve that is along the frontage of the site. There will be some cutting in that area to try to maximize the southeasterly driving traffic. All the information contained in the plans and in the permits and relative to any engineering or any other comments, I can defer to the engineer of the site, Mr. Paulson.

John Paulson, Atlantic Engineering: I prepared the plans. As a quick overview: The area outlined in pink is the area proposed to be developed. The area outlined in green is the area proposed to be either conservation easement or to be used by the city. That is the overview. We do have a wetlands line that has been delineated along the property going the length of the property. Lake Attitash Road is on the left hand end of this plan, and

Kimball Road is up here, so we delineated that wetland for the whole way. We have 8 proposed houses, which are outlined in blue. We have the common access drive road acting as frontage for 3 houses, and as allowed under the regulations, these two driveways are coming in off of that same common access because that is the preference to having more curb cuts on Kimball Road. So 3 houses will actually have driveways on Kimball Road. Lots 5, 1, and 2. We are creating this area outlined in red which will be deeded to the city to take and widen it if they so choose to do so. We'll cut trees in this area that create a lot of the site blockage going around this curve here on Kimball Road. The site will have proposed drainage. This drainage area is in parcel X, with both above ground and below ground drainage. We have on individual lots some stone infiltration along driveways to get a net negative drainage off of the site. Then we have two rain gardens which help create a net negative off the site. So we're only affecting about 2.6 acres of the site. 19 acres, all below here, is what is going to be a conservation restriction, and is not going to be touched in any way. In addition to the drainage for the roads, this is the underground drainage for the road, but in addition to road drainage, each of the lots will have infiltration for the roofs, to get a net zero impact as far as drainage goes, of runoff from the site. All of the runoff for the site does run off towards the back part of the property. But even though it goes that way, we are a net zero by the time we have our limit of work. We have a proposed water line coming in to service the site, and we have sewer going from near the condominiums over here to extend out towards lots 1 and 2, then we have an existing sewer line that comes through the condominium and goes down back and out to Lake Attitash Road. We'll tie into that line with sewer for the other lots. We've done basic landscaping. We have street trees shown outlined in green areas. We have landscaping in the two rain gardens. We have landscaping in the drainage swale that goes into this drainage area, which is a grass swale. We have landscaping in the island. All landscapings are called out on the plan. Nipun has looked at all this, and is ok with what we have shown here. The rest in our plans are details for our infiltration system, our above ground drainage swale, and infiltration underneath it, and again, both of these are the rain gardens. Here are the details of the underground infiltrators, the main source of detention for our net negative zero drainage impact. Other things in here are additional details, road cross section, a tree detail, boundary line plan, a profile of the road, the slope of the road so everything from the road heads down towards the cul de sac and there will be no drainage going out to Kimball Road, and no drainage leaving our area of the site. The road grading here is about 5 ¼ %, so it is not a bad slope on the road. We have site management notes, which note that the drainage and so forth will be the responsibility of the owners, whatever form that takes. There will be some sort of association or requirement for those owners to maintain on site drainage. That's about it for now.

Howard Dalton: How long is your driveway, roughly?

John Paulson: From the center line of Kimball Road down to the very end, it is 290 feet.

Howard Dalton: Is the property all under one ownership now?

John Paulson: It is.

Lars Johannessen: Re: the sewer line you're hooking into: there is no problems with capacity, to add 8 more houses to it? How many bedrooms?

John Paulson: This is the main trunk line for this whole area. The DPW didn't mention anything in their notes about capacity. I assume that 8 lots creates no problems with capacity. But we can check that with "DPW."

Lars Johannessen: Re: street draining, that is also just what they call low impact, so no curbing, just ground swale?

John Paulson: Correct. The road is super elevated, so instead of having a typical crown in the road, the road will all be tilted to go this way, so all roadway drainage will head down to the swale here and into this drainage area. The driveways will be taken care of themselves, so that none of the driveways head to the road, they all stay on their own lots. That's why we have stone around these driveways here, and why we have the rain garden back here.

Lars Johannessen: Has ConCom looked at this yet?

John Paulson: They have not. They made a couple comments about us not having brought them the delineation yet. Ewe just saw that today. I have not seen that memo, even though it was April something, I have not seen it before. All of our work is outside 100 feet from our delineation. The delineation slope is fairly steep where we'll be working. It flattens out a bit in here, then it gets steeper again. This is a fairly steep slope when you are out here. So the delineation can't possibly change much, if at all. We're 100 feet away now, so if we go to them for resource delineation, we may end up being 90 feet away, which would require their approval, but it is still within what they allow, the 50 foot and the 35 foot setbacks. We're proposing nothing that is going to be adversely affected by anything ConCom looks at.

Ted Semesnyei: Where is the snow storage area?

John Paulson: I have not shown one on the plan because, most of the time, they do not end up using them. They tend to put the snow wherever they choose to put it. But it will end up being on part of parcel X here. We'll be landscaping the centers of the islands, so we won't want to put it there. Most of the time, it'll be like a regular road, except for like this past winter. The snow will just be along the sides of the road, but we do have space for it.

Howard Dalton: It is your intention to make it clear all eight have to be part of an association?

Philip Harry: Yes. I have already worked up drafts of several documents where parcel X will have the drainage areas on it, two of the lots will have the rain gardens, and there are a few other restrictions we want to put in there. I've worked up drafts of restrictive covenants. I have a driveway maintenance agreement that is set up that the 5 proposed lots that use the common driveway area are each responsible equally to maintain that. As well as with the open space, if the city doesn't want us to convey it directly to it, we'll keep it, subject to the provisions of a homeowner's trust, which is what I've created. I do anticipate providing drafts to the board after this or the next meeting, depending how we're doing for time.

Howard Dalton: Is it the intention of the developer to FORM A off the 3 street lots to get started, then ...

Philip Harry: They were proposing to do that. Actually, it's a cluster not a FORM A.

Ted Semesnyei: What house sizes are being proposed?

John Paulson: On sheet 5, the two types of houses we've shown on here which, again, it depends on what people want to buy as to what goes in there, but the two base houses are 28 by 38 with 24 by 24 garage. This one is 28 X 38 with a 16X24 garage. Those are the two basic sizes in there.

Philip Harry: Those are characteristic of what my client builds. They have identified what they think their market will be, so they aren't going to over or under build lots.

Lars Johannessen: Are there thoughts of doing more than 1-2 style of house?

John Paulson: We have most starting out on the plan as these same houses. Some bigger, not many if any smaller, but because they're custom built off the same basic plan, some want 3 car garages, it's whatever people wanted. But it's the same basic house.

Ted Semesnyei: If you could provide images next time of the various styles, that'd be great.

Public Comments:

Leslie Silva, 18 Arcadia, Kimball Road: I have many concerns. I work two jobs and had to leave my job to come here tonight to voice my objection to this project being built. The first meeting here, they did not give us many details and our homeowners are very frustrated. People on Ashley Drive and Lake Attitash folks are frustrated, as well. I've lived in my condo for 5 ½ years. A huge selling point moving there was the peace and quiet on our cul de sac. I feel this project will impact our peace but also a heavily traveled and dangerous road will get worse. I question why 8 houses and one being so close to Arcadia. I question homeowners they have certain responsibilities. In our condo development, our association is worried about the drainage issues that can arise from this project and other responsibilities, things we don't worry about in Arcadia. I'm concerned that they are tying into our sewer lines and what impact that could be. Also I'm concerned that the property is on a downhill slope, so when it rains, the drainage problem that we have, is it going to be impacted by cutting of trees? There are lots of different questions and I really worry about the quality of life. I don't want to see a house 100 feet from our condo. I may be selling if they build this. I am not going to see a house so close to my house. I hope you consider that this project will impact a lot of us here. If you are going to approve it, maybe reduce it down to four houses or why the need for such large homes? Why is the owner of the property not here addressing our concerns?

Lainie Senechal: I prepared a letter which I gave to the secretary, to be attached to the minutes. I have deep concerns about a watershed protection resource district special permit for this proposed development. Lake Attitash water quality is already severely compromised. There should be no additional runoff from the watershed into Lake Attitash. The water quality of the lake depends entirely on activities in the watershed. I feel the PLB needs to take this responsibility and the affects of development in this watershed very seriously. I have 3 areas of concern. This plan relies on low impact development features, such as rain gardens and grassed water quality swales to contain runoff. I wonder about the capacity of the developer to build proper Low Impact Development, and the oversight of the town to ensure that these structures are built to established specifications. I'm concerned about the dependence on homeowners, who have no direct interest to maintain these structures over time. I worry about the capacity of these structures to work during flood events. I'm concerned about the expertise of the developer to properly construct the proposed LIDs. I want to know what oversight will be used to ensure they are properly constructed. I read that there is an operation and maintenance plan for storm water controls that homeowners, not the city, are responsible for the maintenance of the LIDs features on the site. Who is overseeing the homeowners? Where is the plan for long term maintenance of these LIDs? Regular maintenance is required for any structure to continue to operate effectively. The developers plan, to me, does not adequately address long term maintenance. Also, homeowners will be fertilizing their lawns with products that we now know have phosphates in them, even though there is a zero phosphate clause in their deeds. Lastly, my concern has to do with the actual pollution of the lake. There is lots of pollution from runoff during heavy rain events. These LIDs are insufficient to handle runoff under those conditions of heavy rain events.

This is especially true for this lake, due to the hydrology (movement of water in and out of the lake). The water in this lake replenishes itself very slowly. Pollution entering the lake remains there for a very long time. Pollutants accumulate under these slow conditions, creating things causing the problems we have now. During heavy rain events, the city has even prevented water from flowing out of Lake Attitash, to protect the downtown from flooding. We can expect more big rain events and snow events, due to climate changing we're witnessing recently in Texas. These LIDs cannot protect the lake in such events. I feel like this project does not adequately protect the water quality of Lake Attitash. I believe this special permit should be denied.

Michelle DiMascio, 15 Acadia, Kimball Road: In April, I had a lot of questions submitted and a lot of paperwork. It was a water study on this lake, and now I've heard there is a newer one has been published. How did they not know they had to go before the Conservation Committee? Where do we stand on the amount of days they have to produce various documents? (lawyer Harry said their 120 days starts tonight). With regard to the proposed 8 houses, will they be built all at once, or one at a time? As neighbors, how long do we put up with construction noises? I also am concerned that the Cormier Construction Group has not attended a meeting yet, this is my second meeting here and they aren't here to answer questions. Will there be something submitted to ConCom before July 6 for the next meeting? How wide is the cul de sac going to be? I know fire trucks need a certain width to pull in and turn around. Traffic studies: some of those studies are from the 90s, some from the 70s. Those need refreshing. A John Lopez (Agent) memo dated 4-13-15: refers to the second full paragraph: therefore the wetlands delineation that is denoted on the plans is proposed and should not be considered legally binding. No wetland delineation is considered final and legally binding until ConCom and MassDEP have reviewed the proposed wetlands delineation and provided a legally valid confirmation. It is recommended that the PLB take no action to approve the project as proposed until a thorough review has taken place in a manner consistent with state and local wetlands permitting. Re: widening of Kimball Road: I assumed they meant widening the road and paving it, to make it actually usable. Tonight they discussed just leaving stakes, in case the city wanted to do it. That has changed. I believe it is foolish to think that people will continue to maintain the swales and rain gardens. As time goes on and houses change hands, not everyone remembers that they have duties to maintain. So how will it all be maintained. If it's an HOA, it needs to be in their documents and they have maybe an outside management company to be responsible. For sewer lines and the capacity for the sewer that is at the bottom of our driveway, which is a steep incline: adding an additional 8 houses, 3 bedrooms, X number of bathrooms, what is the capacity. Can those sewer lines withstand all that extra usage and not give out. How wide will the driveways on Kimball Road be? As for wetlands and vernal pools in the back, I'm told there are endangered and protected species living in the back. I request that an environmental biologist comes on the site and looks at the property, do a species inventory. I submit my letter to have as part of the record.

Cindy Roberts, 5 Fifth Street: I wanted to relay that the Lake Attitash Association, volunteers, board members, and the EPA have been doing years of water quality testing, including wet and dry sampling. The report that the EPA did is complete and available to the public. I just became aware of this project, and wanted to let you hear how we look at it. The lake already has a nutrient overload. We have bacteria blooms and the Dept. of public health of Ma. over numerous years has come in and put NO CONTACT warnings on the lake, meaning don't do anything in or on the lake. That has spurred all volunteers

to continue to do what we could to continue to enjoy the lake. The association has hired Ken Wagner, a leading expert in lakes and ponds, water quality, and he is looking over the EPA report now. Unfortunately, much of the damage has already been done to the lake. Nutrient overload through the years of septic tanks, fertilizers, farming, all the nutrients, it is a kettle pond so there is only one outlet. The water from the lake does go to the Powow River, which goes to our drinking water supply. So we should make sure that any impact, any development, is to make sure that short and long term, we're not hurting our water quality, for recreation AND drinking. So when I look at the documents online, I saw a community impact report that specifically stated up to 15% sloping, up to 30% of the acreage is wetlands, and part of the property is in a flood zone. For those reasons, it's my responsibility to request an environmental impact study be done by an independent consultant to make sure that we're not hurting our water supply for drinking and recreation. Let's not hurt ourselves for the future.

Chris Hyde, 17 Acadia, Kimball Road: My concern: I recognize the land owner has a right to build and leverage their property. I am concerned about the scale of it. I can't stop it, but I'd like to get some mitigations put in place. Kimball Road is such that if I were a realtor, I'm not sure I'd want to show a new property there. I believe a new group of 8 houses will have quite an impact on Kimball Road. Any sort of changing the road, sloping it, whatever, it just begs the question that a traffic impact study needs to be attached to this. It had been mentioned that there was a septic easement, and that it would be used. I'd need clarification on that. Our septic system doesn't exist anymore. I want to understand what impact that might have on Acadia. Also, when I mention mitigating, units 6, 7, and 8 are very much within the wetlands right now. So, I think you put that together with everything that has been mentioned so far, there are serious issues with runoff already as well as erosion, which worries me. Also, where are you thinking of placing the snow pile? That is actually above the Acadia grounds, above the playground. Acadia stores our snow down here. But this parcel for your snow is actually above us. So if all your snow goes there, we could run right down this hill onto the playground and probably into units 20 and 21 here. To sum up, a traffic study needs to be done, I'm concerned with runoff and water quality, and erosion, and I think they need to go before ConCom and we should have an environmental study on impact of the site.

Nipun Jain arrives at the meeting at 8:25 P.M.

Bob Lawless, 63 Kimball Road: I wondered how the PLB felt about the conveyance of the additional land? Maybe convey it to the city or to an association of the homeowners association as open space. Is that your decision?

Nipun Jain: The regulations give a developer the opportunity to set aside portions for open space. Once the open space parcel has been created, if the subdivision is approved, then the developer has three choices. The land can stay with the homeowners association as open space, or offered to the city and accepted as public open space, or a non profit organization may choose to manage and own the open space. The developer can make that choice. If the city does not accept it, then it can stay with the association or if they pass, it can go to a non profit organization. The PLB does not make the decision of acquisition of land. They only make sure that the open space being created is properly protected as open space. Ownership is decided by city council, in a public hearing.

Nick Wheeler, 33 Adams Court: A question I thought of while looking at the plans was, they don't show a fuel source for the houses. Any thought as to whether or not they're going to be storing 250 gallons of heating oil in each home, or gas, or electric? Re: landscaping: last time I asked what the plan was for plantings between the houses and

Acadia. Don't know if that has moved forward yet. And I wasn't sure if floor plans were going to get submitted to the city as part of the application process. I thought there was a requirement under cluster development that those plans must be forthcoming. So I wanted to know if you have them yet. Also, if the applicant decides to hold the open space land in trust with the homeowners association, is there any possibility of public use of that, or does it remain private property? I know there was interest for trails.

Nipun Jain: if it is held by the city of Amesbury, then it is publicly accessible. If it's owned by a trust, or by homeowners association, then it depends on how the restriction is written and does it provide access easements to the public. That's the reason why the city prefers to first of all they control how it is accessible. Re: landscaping, the reason why they held off was they had been asked to file another application which was overlooked. That's why you are hearing the full application and reviewing it. At this point, it will go to the PLB's peer review consultant to go over all of the technical aspects that are associated with the documents that they have submitted. As part of that, once they have looked at the basic fundamental aspects of the project, drainage, erosion control, environmental resources, traffic issues, sight lines, as part of that, then the second tier is the house plans and landscaping. We like to do the primary aspects first, to make sure that there are no basic flaws or issues with those aspects/ engineering aspects. Then housing and landscaping. We make a note of all issues raised at public hearing, and when the peer review is doing their review, we ask them to look at that as well. Staff would like to recommend BSC as peer review consultant for this project.

Motion was made by Lars Johannessen to hire BSC as peer review consultant.

Motion was seconded by Ted Semesnyei. AIF.

Nipun Jain: So I just wanted to ask the applicant, because we have to do the peer review, which will take some time, that today is the first meeting in June, so the earliest we can come back is either the first meeting in July, or the second meeting of July between peer review responses and supplementals. How would you like to do that?

Philip Harry: If you think the peer review would be back by the first meeting in July, then John and I will do our best to address any issues that come up in time for that.

Nipun Jain: The deadline for the PLB is two weeks before their meeting, so I don't think that, if you set it up for the first meeting in July, that you'd be able to respond back to their comments.

Philip Harry: Ok, let's go with the second meeting in July then, that's more realistic.

Nipun Jain: That would be the 27th of July.

Michelle DiMascio: I was asking when the peer review meeting is, but you say it is July 27. Is that an open meeting? (yes).

Motion was made by Lars Johannessen to have the next meeting on July 27. Motion was seconded by Ted Semesnyei. AIF.

ADMINISTRATION:

37 Middle Road Eastern Lights – Definitive Subdivision Plan Approval with 3 Special Permits, Common Access Driveway Special Permit, a 6 lot subdivision, Water protection District Special Permit.

Nipun Jain: This has tremendous history behind this development. It is moving slowly and there have been some minor violations which we are trying to correct. This project started way back in the 80s. It has gone through law suits and what not. It was approved

in 2007-2008 and then the economy tanked. It is now back on track and under construction. At the start of the project, the developer always has a choice of doing a covenant or a performance bond. Most times, the covenant is more practical for everyone, because you don't have to manage any money, any accounts. Essentially, it allows the developer to work on the right of way and infrastructure and not build anything on the lots, which are locked up and cannot be sold without a PLB release from that covenant. Now that the developer is quite a ways along on the right of way, he's looking for release of the lots and would like to establish a tri-partied agreement, which is still the board's prerogative as to whether they release the lots or not. That depends on the observation consultant's report. So what we have before you tonight is a draft tri-partied agreement, and an estimate of the remaining work that needs to be completed as per approved plans. So our request today is for the PLB to authorize us to get our inspectional engineers to look at the bond amount, and to recommend whether it is sufficient enough to cover the cost of the remaining work, and at that point, the PLB will decide whether you should accept the tri-partied agreement and to release the lots or not. This is to authorize the board's consultant to come back with a recommendation. **Motion to have the bond estimate and tri-partied agreement be reviewed by the PLBs consultant for a recommendation was made by Scott Mandeville and seconded by Robert Laplante. AIF.**

Discussion on site walk for Woodsom Farm

Margaret McCarthy (ASA): We actually just finished our spring season, so there are no games going on for the next two Saturdays, until we get into the summer session which starts June 20. The board has asked for some possible weekend dates, and I know Barbara has been trying to coordinate with you on potential dates. I just came to see if we could make it happen in June...or July... or whatever the board wishes, at this point.

Lars Johannessen: I'll be out of town for the next four weekends.

Scott Mandeville: Do we feel as a board that we need to get a field trip in? Are people familiar with it?

Nipun Jain: Before we decide on a field trip, given the scale of the project, it would be most helpful, Margaret, if you marked the limit of work. That is really what the board will be hoping to get a sense of. What is the lay of the land within the limit of work. So if there were some approx. limits as to the scale of the project in relationship to the space that they see. Then it would be possible for anyone to go at their own convenience, any time, and see what we're looking at...if you cannot organize a group site visit.

Margaret McCarthy: I have not been down to the site for awhile, and the areas we were taking over has changed some. The only question I'd have is if I stake things out now, you won't be able to see them, if I recall correctly. The hay gets really tall. I'd need very tall stakes. I could use field flags.

Scott Mandeville: It'd be best for us to get a broad view, because the corners of this are pretty far out. We're not going to go traipsing through the fields there. If you had a stake that was 6 feet high...

Margaret McCarthy: We have field flags, which are about 5 feet.

Scott Mandeville: I've been about 4 times since our last meeting. I'm curious as to what we're going to see better than getting into the parking lot and taking a look out there. A tall flag would be helpful.

Nipun Jain: That will help create a visual both in the parking lot, as well as from Lions Mouth Road and possibly from Cashman too. That is what I would recommend and then

change whether we need to assemble as a group, or go on our own. If it was just those flags, and there is something that they can go back in and out, even if you have to take them out during the hay mowing...

Margaret McCarthy: Yes, I would just not like to leave them for a prolonged period of time. So if we could narrow down the window of a site visit, because I don't have a right to mark that land at this point.

Nipun Jain: Maybe we could just borrow the flags from you and use DPW to mark off the area for us.

Margaret McCarthy: Sure, whatever works best.

Nipun Jain: So given that, do you want to have an open window on Saturday possibly, or Friday?

Karen Solstad: I could do evening. We have daylight.

Scott Mandeville: I couldn't do weekends for the next couple weeks either.

Robert Laplante: Could we designate some board representatives? I don't see we can't do this off of a plan? Why do we have to go out to a field? Why don't we let those who feel it would enhance their grasp of this go and view it, and those of us who can do it better off of a plan, do that?

Nipun Jain: In this project probably it doesn't matter so much. How about a show of hands, how many prefer the evening? OK, so majority wants to do it in the evening.

Howard Dalton: OK, so next week it is for a site visit.

Margaret McCarthy: So will we be able to be on the agenda for June 22?

Nipun Jain: To date, I have not received anything from you. I was going to bring that up, that you may not be scheduled for June 22nd, it may be pushed off to the first meeting in July, which will be the thirteenth.

Nipun Jain: A couple things not on the agenda:

Hotel Covenant: The board was gracious enough to come in and sign a covenant as it relates to the hotel. That covenant was to require a performance guarantee before the project is signed off and completed. At that time, the applicant was saying that can we do it prior to start of building permit application. The applicant is requesting, given the project has been slow to take off, that instead of the building permit, can we have the performance guarantee be established at the start of the next construction season, which is April 1 ? It appears, given the work that they are required to do in the wetland, is going to take much longer. But they will probably be just putting up the pad and basic frame to the end of this season. If they are lucky, they will be able to get the envelope up. We don't want to lock up close to \$1M right now, because this is design built. We'd rather have the board hold the money for the remaining work. The board's concern on such projects is the landscaping, lighting, site finishes, not so much as drainage. If it is already being reviewed by the board's consultant, and we continue to get reports, it is only important for PLB to look at what I call above surface finishes, not subsurface finishes, which otherwise would be included in the performance guarantee. Make sense? So if you were to put in a performance guarantee right now, you would have to include everything, which would be drainage, all the earth being moved onto the site, retaining wall, the pipes, every little thing that you'll never see. But if you get to rough grade, then the only money that would be put forth in the performance guarantee would be the final pavement, landscaping, lighting, which is what the board has always been most concerned about, and the project gets finished as it was envisioned. BSC is reviewing and doing the site

inspection, so you are getting monitoring reports from BSC on whether all of the subsurface preparation and installation is being done as per the approved plans. If it doesn't and we get a report that it has not been done, then we bring it to the PLB, and if the applicant says yes, this is how I will respond to it, and BSC is ok with that, then it continues to move forward. Otherwise, we say stop and come before the PLB and explain why you are not fixing what BSC is saying that you have to fix. And you still have the covenant which does not allow them to get any release on the building. That was the change to the original covenant, that instead of being September of this year, it will be April 1 of 2016. That is when they will have to post a performance guarantee for the remaining work. They will get a building permit for this year for the pad and framing. The building is not in the performance guarantee, it is just the finishes. Just like CVS or Cumberland Farms. Is that modification acceptable to the board for the covenant?

Entire board says yes.

Nipun Jain: Re: Baileys Pond: I haven't received any follow up requests on the legal case that the PLB is involved in, AKA Baileys Pond. That is why you haven't heard back from us for a request for an Executive Meeting. I will talk more about that at the next meeting. This is exactly what Howard had predicted, that we will end up in this situation if we don't have a 90 day progress benchmark. I think we are very close to, if not past the 70 day mark.

Karen Solstad: What about the letter from Jane Snow?

Nipun Jain: I haven't seen that, but can you brief me on it? Did Cumberland Farms promise some money to the cemetery?

Karen Solstad: Well, I thought we had an agreement with Cumberlands about the landscaping, the fence, and all that stuff. Here we have her stating that Councilor Bob Lavoie contacted Jane and said "I'm buddies with the lawyer (John Smolak). What do you guys want, and did an end run around the PLB and I thought we had an agreement as to what they were going to do, as part of...and all of a sudden they are going and trying to deal directly with the cemetery commission.

Nipun Jain: I have no idea how that came about, as far as donations to the cemetery commission, which...

Karen Solstad: They were going to give \$1600 and then now she's being told not that. They haven't finished their landscaping up there in back.

Nipun Jain: So the update on my side, as far as the PLB goes, is yes, they had agreed to a stone wall, and landscaping, per a plan that the PLB approved the end of January. Since that time, they have asked me to talk to the PLB about the fact that "what are the objectives of the PLB as far as the edge treatment, because, if it is visual; then the wall would not be visible from any point because the building would completely hide it. If it is structural, then they could propose another solution because the factor is not just the methodology of that construction of that stone wall, which is to be hand laid, but also the narrow limit of work within which they will be able to assemble or construct the wall. All of those issues were brought to their attention by the board. So it is very frustrating for me to hear all of those same issues, which it appears they were not listening at all when the PLB was raising those concerns. Furtherupon, they talk about "well, there will only be two feet area left to do any landscaping and that is not something the PLB doesn't already know or recognize. So that is when it sort of went back to the high level objective discussion which is "what are the goals here?" One, we don't want to see that slope

being left as is. That is clearly a priority, not just because it is a cemetery, but because it is not something the PLB allows. Two, there could be other options for the edge treatment in the portion that is not visible, but anything that is visible and beyond the building has to be treated as if it is more aesthetically pleasing. Third, the landscaping that is required under the regulations, if you cannot do it, then it has to be, if the board so chooses, planted elsewhere on the site or offsite. With those objectives, I had a discussion this morning with them and some of the options that were discussed before they prepare a final alternative option is, they have no problems carrying forward the wooden fence (6 foot solid privacy fence) that they already have on the site, all along the back of the building for the full extent of the building at the property line where the bottom of the fence is actually at the grade of the cemetery. So from the cemetery side, it will look as if the fence is sitting on the cemetery grade, so it will not look like a fence sitting way below and something just showing up. The existing grade actually changes from 56 to 58 at it's highest point, and then drops to 57, so we would choose somewhere between 57 and 58 as the bottom of the fence., and it will be maintained, so it looks like a clean finish. Once we get past the building, it will change into a decorative fence like they have around the patio. It makes for a more visual openness and not just solid wall past the building. The issue is, what do you do because you have a two foot drop from the bottom of that fence to where the drainage swale is. It forms like a ledge. You have the vertical face and then you have that. So you have to have a vertical element that can be constructed or provided for back filling. They had indicated we could do block walls. If you do block walls, then you are back into the 18 inch or 20 inches. So one of the things that we discussed was, and it is just a discussion is, because these vertical elements of the fence would have to be pretty big, with 6 feet, two feet, then another 4 feet below grade, looking almost 12 to 14 feet long vertical elements to anchor the fence. So they would probably be 6 by 6 pressure treated posts or steel posts that would go vertically down. So they would end up actually holding the fence and then we have to infill between those vertical posts, which are either 6 feet center to center or four feet or eight feet, center to center, depending on what the engineers come about, with some sort of vertical element. One of the suggestions was landscape in tiers, because it is never going to be seen, never going to be damaged because there is no motorized vehicle going back and forth that would graze it, and then you could possibly do some landscaping in front of those builder tiers on the Cumberland Farms side, which would be better than having nothing.

Lars Johannessen: But that would still leave them with a 1:1 slope there?

Nipun Jain: It would be a vertical slope. If you have two posts, you fill that with railroad timbers running in between the posts for that two feet, then you back fill it with crushed stone from the cemetery side.

Lars Johannessen: But the railroad timbers aren't going to last that long.

Scott Mandeville: I thought the plan was to just past this rip rap that they have, we were going to lay up a wall, to allow them to bring the grade to a more acceptable angle to that wall. Then there was going to be a decorative fence.

Nipun Jain: That was the approved plan and is still the approved plan.

Scott Mandeville: But now they are proposing to do it out of wood or timber?

Nipun Jain: What they are saying is, with that stone wall, their landscaper told them basically that he cannot plant anything there, because there will be nothing left.

Robert Laplante: Everything you are saying is from Cumberland Farms point of view, which we've heard a thousand times before. They have a very simple request that I don't hear any discussion on. They've showed us evidence of state of the landscaping and

sloping that was caused by the Cumberland Farms construction. All they are asking us to do is to make sure that Cumberland Farms does something. They are not asking ... they talked about the fence, but there are other things here. Take a look at that letter. They are very specific. "My concern is that, due to the construction, they have created a steep slope on the cemetery side, that was not there previously." I think that is a fact. "And be difficult to maintain." We just heard people testify tonight about "who is going to maintain this?" "Cumberland Farms caused this problem. Putting a fence up is not going to solve this problem. I would implore the PLB to ensure that this is addressed. I don't hear anybody addressing this. Take a look at the picture, it's worth a thousand words.

Scott Mandeville: That steep slope is what we're trying to get rid of. I think we worked very hard to come up with a solution that would speak to that and fix it to a level acceptable to all at that time. I think we should advise them to continue through with the plan.

Nipun Jain: What they are asking is, if they build a stone wall, we cannot do the landscaping in front of it.

Howard Dalton: Well, do it on the cemetery side, which would actually look better.

Nipun Jain: The cemetery commission doesn't want it. They said they do not want anything because we don't know where the graves are. So the issue was that Cumberland Farms again did not do their due diligence. They proposed the wall, which we accepted, which we negotiated, and it was resolved. Now they are saying "we'll, if we do the stone wall, then we can't do the landscaping. So what is it that the board wants?"

Lars Johannessen: They also said they put the swale in wrong when they put it there.

Nipun Jain: I asked them about that, and they said the swale is not changing. This is going to be a five foot swale.

Karen Solstad: My concern is the grade of the cemetery and preserving and fixing the problems they created on the cemetery part. I really couldn't give two hoots if mud fell onto Cumberland Farms property, but I'd be very concerned for the graves there. My concern is that the landscaping is nice, but with the slope, that we be able to maintain the cemetery and their obligation to do that stone wall so that we have a flat area that we can maintain and we don't have any erosion happening on the cemetery side, and that we don't have kids with lawn mowers going down a slope.

Scott Mandeville: If we can get some trees, bushes, landscaping stuff going in there, great. If not, getting that flattened out and leveled is great.

Robert Laplante: I don't think we, as a board, should be coming up with a solution. I think we, as a board, should be responding to the cemetery commission, who has pointed out that the condition of the cemetery has been adversely affected by the action of Cumberland Farms. Now Cumberland Farms told you that no, we can't do it because...

Howard Dalton: This whole stone wall thing was the solution to it.

Nipun Jain: So this letter is a little too late.

Robert Laplante: Let me see if I can get an answer out of this. I would ask the board, this is the cemetery person saying, another city dept., please take the necessary steps to have these issues addressed, and I do feel compensation needs to be made to the cemetery, especially since they did all the landscaping and exterior work on the store, which looks terrific, but the cemetery looks crappy. Cumberland Farms is not in the cemetery business. We all agree. But they caused it. So why do we keep coming back to the fact that Cumberland Farms can't build or do something? I can't believe they can't do something. I remember specifically the Cumberland Farms representative being willing to give money. He would've done anything.

Karen Solstad: What bothers me is this, that lawyers going to city councilor and thinks this will go away...

Scott Mandeville: And whoever picked \$1600... is garbage.

Karen Solstad: So they have an agreement with us, on what this was, and what they have created...

Nipun Jain: I explained this to Jane, that what they do with the cemetery commission is totally separate. It does not absolve them of that sin that they had created.

Robert Laplante: The question I have is, we put all these other applicants through the paces to make sure that they do not adversely affect all kinds of abutters, wildlife...

Lars Johannessen: We asked them time and time again throughout this whole thing to not interrupt the property, not cut down trees, not do this, not do that. They weren't going to do it, we're not touching, we're not touching... and they screwed it up.

Robert Laplante: How hard can it be to re-seed, landscape, do something?

Scott Mandeville: They have to get a wall in there. Because it is so steep here, they can't just re-seed. The solution was to level it out and build a wall here. We're telling them they need to build a wall, so that this steep grade can come out flat to the edge of that wall. That's what we told them to do. Now they're asking about maybe doing something different.

Nipun Jain: According to the landscaper, who was very practical, a fieldstone wall laid by hand, or any type wall, is 24 inches, minimum. With a footing, probably more like 30 inches. So if you don't have the room now, you never had the room before.

Robert Laplante: Why don't we refer this letter to Cumberland Farms, and say we received this letter from the cemetery commission and we'd like to know how you propose to deal with this and bring the land back to where it is supposed to be?

Karen Solstad: We already have an agreement.

Nipun Jain: I was going to make a suggestion that we should say, "We received this letter, we bring to your attention that you had agreed with the PLB to the possible resolution to this very issue. When are you going to implement that?"

Scott Mandeville: I think we should encourage them to go forward with putting in the wall, and if their argument then is that we can't get the landscaping in, then we will re-evaluate it after the wall has been installed and the grade has been fixed. Then we can make a determination as to what extent of landscaping can be done. I also think we should advise the cemetery commission to not be taking handouts or money from them in any way to give them any idea that this is resolved.

Nipun Jain: I think you can pre-empt by writing to Cumberland Farms and saying "It has come to our attention that you are offering cemetery commission this money as a way to not do the slope. You better be informed that this has nothing to do with this. If you want to donate something to cemetery commission, go ahead and do it, but you are not going to get out of building the \$30K stone wall. I just want to point out that the discussion we just had is very helpful. The applicant had asked to meet with the PLB members, but knowing that this is not a simple issue, which would get resolved with a site visit, I just went to get a first hand understanding of what they were trying to do. They were trying to set priorities before they come back with options. So it appears the priorities of the PLB are what I had indicated: they need to resolve the slope issue first, that is the highest priority. Then it is landscaping, depending on what can and cannot be accomplished, then you do that, and then third..."

Robert Laplante: I think the second is the natural evolution from the first decision. Because the landscaping is going to... they say, regardless of what you do, they can't mow. So you won't have grass in there, you'll have something else.

Nipun Jain: The approved plan shows a wall and landscaping. If they do the wall, and then they don't do the landscaping, the PLB would rightfully say, "well, where is the landscaping?" They'd say "well, we told you that if we build a wall, we can't do the landscaping."

Howard Dalton: Then we'll negotiate where to put it someplace else, as long as you get the wall and the back filling done. That'll protect the cemetery. Level the grade.

Nipun Jain: So one of the things they talked about was that if they do have to do the wall, and if it is not going to be visible, is there a reason for it to be a fieldstone wall? Can it not be a landscape wall, block wall?

Scott Mandeville: I think we talked about a stone wall is because it necessitated being done by hand.

Nipun Jain: So I guess I have to let them know that they have to come to the next PLB meeting, and that the option I discussed so far are off the table.

Robert Laplante: What about the cemetery commission?

Howard Dalton: Leave them out of it.

Nipun Jain: Yes, I think if you...

Karen Solstad: Is there any way we can tell Rob Desmarais that we are working on a resolution within the scope of the plan, and if...

Nipun Jain: Rob knows and he is on board. He has basically said he doesn't want to get involved in this beyond what the PLB has already approved. And if that is what the board wants, we'll make sure that that is fine.

Robert Laplante: One technical question. Did you see who this letter is addressed to? Not to the city planner, not to the mayor or the economic dept., it is addressed to David Frick, Howard Dalton, Lars Johannessen, Robert Laplante, Scott Mandeville, Ted Semesnyei, Karen Solstad. We're out of line here. This is June 8. One dept has asked another dept to do something under our ... that's the reason I'm so concerned. I just don't think we should let it seem like we're a bunch of...

Nipun Jain: I wish I could make it as simple as it should be, but it isn't. Technically, if I wanted to pull up somebody here, there would be two other depts. That I would pull up here, which have not been addressed here in the letter. The enforcement and the implementation side, which is why we are here discussing this matter nine months after the issue. So it is very easy for them to place it on the PLB shoulder and say, "go fix it." However, I think that the board has done everything within its jurisdiction to make sure that the issue gets resolved. Again, it's a matter of implementation. That should not be up to the PLB to make sure that it gets implemented. That is up to the compliance officer. He should be on their tail saying, and Rob, who technically is the keeper of ...

Robert Laplante: So let's refer it to them.

Nipun Jain: So, my response to that letter would be, "Thank you, Cemetery Commission, for bringing this to our attention. We're going to forward your concerns to these two departments, as well, based on the plan that was approved by the PLB and was required of Cumberland Farms to be installed, and at the same time, we will follow up with Cumberland Farms to find out why they have not completed this work to date."

Scott Mandeville: I don't think we need to have them come to the next meeting. I have no desire to bring them in and yell at them about this. We have a direction we gave them.

We've told them what we wanted. I think everyone is in agreement that we still want the same thing...

Nipun Jain: So what will happen, Scott, they will basically say that they want to come to the board to discuss alternatives. That is what they basically told me.

Lars Johannessen: What if the board is not willing to entertain alternatives?

Scott Mandeville: That's the thing, I don't want them to come in here and start talking about why they can't this and that, and how hard it is...

Nipun Jain: I'm just telling you, this is what will happen if you ...

Howard Dalton: I think what we should do is kick it up to the mayor, because he's in control of the property, the zoning enforcing officer, the whole bit. Let him push down, rather than us try to push up.

Scott Mandeville: And if he doesn't, and we wind up with something we don't want...

Howard Dalton: Forward that letter to the mayor and...

Robert Laplante: That may be good, but I'm saying, before we kick it upstairs, I think we ought to go through our ... to the people who should be doing it, and we should be on record, PLB received the letter, referral to the people who are supposed to enforce this stuff, put it in their lap, and at least we've touched the bases. If I were them, and I went over their head to the ... if someone went over my head rather than coming to me first, I know what my reaction would be. Your reaction would be the same way. People do that.

Howard Dalton: You can send it to them, but we're just going to delay it until August or so and then we'll go through the same thing. You want to get a definitive, before the cemetery washes down into Cumberland Farms.

Motion to adjourn this meeting was made by Lars Johannessen. Motion was seconded by Scott Mandeville. AIF.

Meeting was adjourned at 9:38 P.M.